SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1956.

No. 52

UNITED STATES OF AMERICA, APPELLANT,

vs.

LUDENIA HOWARD, TRADING AS STOKES FISH COMPANY

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA

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1 United States District Court, Southern District of Florida, Orlando Division

No. 910-Orl-Cr

UNITED STATES OF AMERICA

vs.

LUDENIA HOWARD, trading as Stokes Fish Company

TRANSCRIPT OF DOCKET ENTRIES

July 20, 1955. Criminal Information.

October 25, 1955. Summons issued returnable at Orlando, November 3, 1955 at 2:00 PM.

November 1, 1955. Summons returned executed.

November 3, 1955. Arraigned and Plead NOT GUILTY.

November 3, 1955. Defendant allowed 10 days to file Motions.

November 14, 1955. Motion by Defendant to Quash Information.

November 14, 1955. Motion by Defendant for Bill of Particulars.

December 29, 1955. Order Granting Motion to Quash Information.

January 27, 1956. Notice of Appeal to the Supreme Court of the United States.

2-3 [File endorsement omitted]

United States District Court, Southern District of Florida, Orlando Division

Case No. 910-Orl. Cr.

[Title omitted]

CRIMINAL INFORMATION—Filed July 20, 1955

The United States Attorney charges:

On or about the 16th day of May, 1955, at Sanford, Seminole County, Florida, in the Southern District of Florida, LUDENIA HOWARD, trading as Stokes Fish Company, delivered to the Railway Express Agency, Inc., for transpor-

tation from Sanford, in the State of Florida, to Macon, in the State of Georgia, 150 pounds of fresh water bream, fresh water crappie, and fresh water black bass, and such transportation was then and there contrary to the laws of the State of Florida; in violation of Section 852, Title 16, United States Code.

(S.) VERNON W. EVANS, JR.,
Assistant United States Attorney.

Duly sworn to by Vernon W. Evans, Jr. Jurat omitted in printing.

4 [File endorsement omitted]

United States District Court, Southern District of Florida, Orlando Division

[Title omitted]

MOTION TO QUASH INFORMATION—Filed November 14, 1955

Comes now the Defendant, by her undersigned attorneys, and moves this Honorable Court to quash the criminal information filed against the Defendant, Ludenia Howard, upon the following grounds, to-wit:

1. The said Information fails to state a cause of action against this Defendant.

2. The said Information fails to allege that the Defendant, Ludenia Howard, had any knowledge of the nature of the said shipment delivered for said transportation.

3. The said Information fails to allege that Ludenia Howard personally delivered the alleged fish to the Railway Express Agency, Inc. for transportation.

4. Said Information fails to allege that the said Defendant, Ludenia Howard, had any personal connection with the said transaction in any way, or that she had any knowledge of the said transaction.

THACKER AND THACKER,
By (S.) O. S. THACKER,
Attorneys for Defendant,
P. O. Box 527,
Kissimmee, Florida.

I hereby certify that copy hereof has been furnished Vernon W. Evans, Jr., Esq., Assistant United States Attorney, P. O. Bldg., Tampa, Florida, by mail, this 10th day of November, A. D. 1955.

(S.) O. S. THACKER,
Attorney.

5 [File endorsement omitted]

United States District Court, Southern District of Florida, Orlando Division

[Title omitted]

ORDER ON MOTION TO QUASH INFORMATION—December 29, 1955

This cause coming on for hearing upon Defendant's Motion to Quash Information, and the same having been argued by counsel, and it being called to the Court's attention that there is no law of the State of Florida prohibiting the transportation of the fish described in the said Information, and the Court taking judicial notice that there is no such law; but the only prohibition against the same being the rules of the State Game and Fresh Water Fish Commission; and it being the further opinion of the Court that the rules and regulations of the said Game and Fresh Water Fish Commission do not constitute the law of the State of Florida as described by and contemplated in Section 852, Title 16, United States Code, which violation was specifically charged in the Information filed herein; it is, therefore

ORDERED, ADJUDGED AND DECREED that the said Information be, and the same is hereby quashed, and the Defendant discharged.

DONE AND ORDERED in Chambers at Orlando, Florida, this 29th day of December, A. D. 1955.

(S.) WILLIAM J. BARKER,
As Judge of the Above Court

6 [File endorsement omitted]

In the United States District Court for the Southern District of Florida, Orlando Division

[Title omitted]

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES—Filed January 27, 1956

I. Notice is hereby given that the United States of America, the plaintiff above named, hereby appeals to the Supreme Court of the United States from the final order entered on December 29, 1955, quashing the information which charged that defendant transported black bass in interstate commerce contrary to the law of Florida from which such bass was transported, in violation of 16 U.S.C. 852.

This appeal is taken pursuant to 18 U.S.C. 3731.

II. The clerk will please prepare a transcript of the record in this cause, for transmission to the Clerk of the Supreme Court of the United States, and include in said transcript the following:

1. Transcript of docket entries.
2. Information.
3. Motion to Quash.
4. The Order Quashing the Information.
5. Notice of Appeal.

7 III. The following question is presented by this appeal:

Whether the district court erred in construing the word "laws," as used in the Black Bass Act, 16 U.S.C. 852 (which prohibits interstate transportation of black bass if such transportation is contrary to the laws of the state from which the fish is transported) as not including regulations issued by the Florida Game and Fresh Water Fish Commission, where (1) the Commission was created by a constitutional amendment which vested it with sole authority to regulate transportation of fresh water fish, and (2) the

constitutional amendment provided that the legislature could pass laws in aid of the provisions of the said amendment but not inconsistent therewith.

SIMON E. SOBELOFF,
Solicitor General.
By (S.) JOSEPH P. McNULTY,
Assistant United States Attorney,
Southern District of Florida.

8 AFFIDAVIT OF SERVICE (omitted in printing)

9 Clerk's Certificate to foregoing transcript (omitted in printing).

10 Supreme Court of the United States

ORDER NOTING PROBABLE JURISDICTION—June 11, 1956

APPEAL from the United States District Court for the Southern District of Florida.

The statement of jurisdiction in this case having been submitted and considered by the Court, probable jurisdiction is noted and the case is transferred to the summary calendar.

June 11, 1956.

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